

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CR. NO. 14-3609 JB

BENTLEY STREETT,

Defendant.

**UNOPPOSED MOTION TO CONTINUE SENTENCING AND EXTEND DEADLINE
FOR FILING OBJECTIONS TO PRESENTENCE REPORT
AND SENTENCING PLEADINGS**

COMES NOW Defendant Bentley Streett, by and through his counsel of record, Martin Lopez III, P.C. (Martin Lopez III) and moves this Court for an Order to Continue Defendant's Sentencing Hearing of May 30, 2019 and Extending Deadlines for Defendant's Filing of Objections to the Presentence Report and Sentencing Pleadings until this Court files its Memorandum Opinion on Defendant's Motion to Dismiss or by subsequent order.

AS GROUNDS, Defendant would state as follows:

1. On December 7, 2018 Defendant Streett entered a guilty plea to Counts 2, 3, 4, 5, 6, 7, 8 and 11 of the Second Superseding Indictment charging him with Count 2: Travel to Engage in Illicit Sexual Conduct in violation of 18 U.S.C. § 2423(b); Counts 3 and 4: Production of a Visual Depiction of a Minor Engaging in Sexually Explicit Conduct in violation of 18 U.S.C. §§ 2251(a), (e), and 2256; Counts 5, 6 and 7: Production of a Visual Depiction of a Minor Engaging in Sexually Explicit Conduct in violation of 18 U.S.C. §§ 2251(a), (e), and 2256; Count 8: Distribution of Visual Depictions of Minors Engaged in Sexually Explicit Conduct in violation of 18 U.S.C. §§ 2252(a)(2), 2252(b)(1), and 2256; and Count 11: Possession of Child Pornography in violation of 18 U.S.C. §§ 2252A(a)(5)(B), (b)(2), and 2256. (Doc. 185).

2. On February 14, 2019 the U.S. Probation Office disclosed Mr. Streett's presentence investigation report ("PSR"), making all objections to the PSR and sentencing-related filings in this

case due on February 28, 2019. (Doc. 188).

3. FRCP 32 (f)(1) sets the time to object to the report as: "Within 14 days after receiving the presentence report, the parties must state in writing any objections, including objections to material information, sentencing guideline ranges, and policy statements contained in or omitted from the report."

4. Defendant Streett is housed in the Santa Fe County Detention Center, making it difficult for counsel to meet with Mr. Streett to discuss the presentence report, his objections to the PSR, if any, and sentencing pleadings adequately. The schedule of undersigned counsel has been such that he needs additional time to file objections, if any. Given undersigned counsel's current schedule, he did not have adequate time to review the presentence report with Mr. Streett, prepare and file objections, if any, and submit the requested sentencing pleadings for the Court's consideration.

5. On March 6, 2019 the Court entered its order continuing the sentencing to May 30, 2019. (Doc. 192).

6. On April 4, 2019 Counsel for Defendant filed a notice of non-availability due to medical issues from April 3, 2019 to April 22, 2019. (Doc. 193). Counsel has recently returned to work and previously, has not had sufficient time to review the Pre-Sentence Report with Defendant Streett.

7. Based on the aforementioned facts and circumstances, counsel for Defendant Streett hereby respectfully requests the Court extend the deadline for filing of objections to the presentence report and sentencing-related pleadings until after the Court enters its Memorandum Opinion to Defendant's Motion to Dismiss or by subsequent order, and continue sentencing for a period of two weeks from the current May 30, 2019 sentencing date. No prejudice will result by granting the requested extensions.

8. A failure to continue the sentencing hearing and deadlines will prevent Defendant and the Government from preparing this matter fully and adequately. This would result in a miscarriage of justice as described in 18 U.S.C. §3161(h)(7)(B)(iv). *See USA v. Toombs*, 574 F.3d 1262 (10th Cir. 2009). For the same reasons, the ends of justice and the best interests of the public will be furthered

by the relief requested herein.

9. Undersigned Counsel for Defendant Streett contacted Assistant U.S. Attorney Sarah Jane Mease seeking her concurrence and she does not oppose this motion or the time limits requested.

WHEREFORE, based upon the information and reasons described above, Defendant Bentley Streett respectfully requests this Court to Order that the May 30, 2019 sentencing hearing be vacated and continued, the deadline for filing objections to the presentence report be vacated and continued, and sentencing pleadings in this matter be continued until after this Court has entered its Memorandum Opinion on Defendant's Motion to Dismiss or by subsequent order of the Court.

Respectfully submitted,

MARTIN LOPEZ, III
A Professional Corporation

Electronically filed May 7, 2019
Martin Lopez, III
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th of May, 2019, I filed the foregoing pleading electronically through the CM/ECF system, which caused the following counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing to the following:

Sarah Jane Mease
Assistant U. S. Attorney
E-Mail: sarah.mease@usdoj.gov

Electronically filed May 7, 2019
Martin Lopez, III